Anwar et al v. Fairfield Greenwich Limited et al Doc. 196

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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| ANWAR, *et al.*,<br><br>Plaintiffs,<br><br>v.<br><br>FAIRFIELD GREENWICH LIMITED, *et al.*,<br><br>Defendants.<br><br>This Document Relates To:<br><br>09-CV-2366 (VM) (*Ferber* Action)<br>09-CV-2588 (VM) (*Pierce* Action)<br>09-CV-5012 (VM) (*Morning Mist* Action)<br>09-CV-5650 (VM) (*Sentry* Action) | MASTER FILE NO. 09-CV-0118 (VM) |

**DECLARATION OF PAUL J. SIRKIS**

I, Paul J. Sirkis, make this declaration pursuant to 28 USC § 1746. I hereby state as follows:

1. I am an attorney associated with the law firm of Simpson Thacher & Bartlett LLP, counsel for certain Defendants in the above-captioned action. I submit this declaration in support of FGA's opposition to the motions to remand by the *Ferber*, *Pierce*, *Morning Mist* and *Sentry* Plaintiffs in the above-captioned consolidated action. I am fully familiar with the matters stated herein based on personal knowledge or review of files in the possession of my firm.

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2. Based on copies of the subscription agreements in my possession ("Subscription Agreements") entered into by investors in Greenwich Sentry Partners, LP ("GSP"), the following are current limited partners of GSP:

    i. Accucom Consulting Inc. Profit Sharing Plan
    ii. Allard Investors LP
    iii. Arque Constellation Fund, LP
    iv. Artemis Financial Services LLC
    v. Artemis Financial Services LLC Pension Fund
    vi. Capital Management Partners
    vii. Core Equity Trust
    viii. Dawson Bypass Trust
    ix. Edward Demetriou
    x. Frank E. Pierce, III
    xi. Frank E. Pierce, III, IRA
    xii. Gail Plautz, John Plautz and Alberta Plautz as joint tenants
    xiii. Gil Bossidan
    xiv. Goldberger & Dubin Retirement Trust
    xv. Joyce Rubin and Barry Globerman as joint tenants
    xvi. JODA Brokerage Associates, Inc. Pension
    xvii. John R. Schaupp
    xviii. Jose Luis Cabrera & Rosa Maria Cabeda
    xix. Lisa G. Kaminir
    xx. Marilyn Noel McAlister

xxi. Natalia Hatgis

xxii. Patricia L. Cook Revocable Trust

xxiii. Philip A. Annibali Declaration of Trust

xxiv. Ronald A. Thomann

xxv. Sara Varzan and Luis Aron

xxvi. Susan Jo McKeefry Insurance Trust

xxvii. Susan McKeefry

xxviii. Triumph Multi-Series Fund LP

xxix. Yoshiki Hidaka and Masano Hidaka

3. Based on the Subscription Agreements, the following are former limited partners of GSP:

   i. Premier Advisors Fund LLC

   ii. Juniper Street Absolute Return Trust

   iii. Matapeodia LP

   iv. Citco Global Custody NV Pictet Notzstucki

   v. Gillian Jolis Defined Benefit Plan

4. Pursuant to an order issued by Magistrate Judge Theodore H. Katz on May 13, 2009 (the "Order"), subpoenas were served on the following ten non-party limited partners in GSP:

   i. Accucom Consulting Inc., c/o John Narducci, Trustee, 250 Post Road East, Westport, CT 06880 ("Accucom Profit Sharing Plan").

   ii. Allard Investors LP, Robert S. Critchell, GP, 2770 Indian River Blvd., Vero Beach, FL 32960 ("Allard").

   iii. Arque Constellation Fund, LP, 27520 Hawthorne Blvd. Suite 290, Rolling Hills, CA 90274 ("Arque").

iv. Core Equity Trust, c/o Jack Mayberry, 108 Caledonia St., Sausalito, CA 94966 ("Core Equity Trust").

v. Dawson Bypass Trust, c/o Michael Wind, Trustee, Michael Wind, Trustee. 1350 Broadway, Suite 1615, NY, NY 10018 ("Dawson Bypass Trust").

vi. Joyce Rubin, 16819 Knightsbridge Lane, Delray Beach, FL 33484.

vii. Triumph Multi-Series Fund LP, c/o Calhoun Asset Management, 8770 West Bryn Mawr Avenue, Suite 1300, Chicago, IL 60631 ("Triumph").

viii. Yoshiki and Masano Hidaka, 6305 Blackwood Rd., Bethesda, MD 20817.

ix. Juniper Street Absolute Return Trust, c/o Ashbridge Investment Management LLC, One South Broad Street, 23rd Floor, Philadelphia, PA 19109.

x. Premier Advisors Fund LLC, 35 E. Wacker Drive, #1600, Chicago, IL 60601 ("Premier Advisors Fund").

5. The subpoenaed non-parties responded as follows (the "Subpoena Responses," copies of which are in my possession):

i. A response was received from Accucom Profit Sharing Plan on June 29, 2009, listing 12 individuals who are beneficiaries in Accucom Profit Sharing Plan, and indicating that these individuals are all domiciled in Connecticut.

ii. A response was received from Allard on June 4, 2009, listing 12 individuals as partners in Allard, and indicating that these individuals are domiciled in New York, Florida, Pennsylvania, Connecticut, and Arizona.

iii. A response was received from Core Equity Trust on July 17, 2009, stating that there are 10 beneficiaries in that Trust, and indicating that these beneficiaries are domiciled in California, North Carolina, and Florida.

iv. A response was received from Dawson Bypass Trust on June 29, 2009, stating that there are one beneficiary and two remaindermen in that Trust, and indicating that these individuals are domiciled in Oregon and California.

v. A response was received from Barry Globerman on June 23, 2009, stating that Joyce Rubin and Barry Globerman (both listed as domiciled in Florida) invested in GSP as joint tenants, and that JODA Brokerage Associates Pension Plan contains one sole member (also domiciled in Florida).

vi. A response was received from Triumph on June 25, 2009, listing 15 limited partners in Triumph, and indicating that these limited partners are domiciled in Illinois and Nebraska. A subsequent response was received July 20, 2009, indicating that one of the limited partners in Triumph is a trust with two beneficiaries, and another limited partner in Triumph is a partnership held by two partners.

vii. A response was received from Premier Advisors Fund on July 17, 2009, listing at least 54 persons who held an interest in that Fund (some of the named persons with an interest in Premier Advisors Fund are trusts and limited liability corporations themselves), and indicating that these persons are domiciled in California, Florida, Missouri, Washington, Connecticut, New York, Virginia, Illinois, Massachusetts, Arizona, Texas, Puerto Rico, Alabama, North Carolina, Oklahoma, and Ohio.

6. The following limited partners in GSP voluntarily provided documentation (copies of which are in my possession) indicating as follows:

i. There are 15 partners in Capital Management Partners.

ii. There are 4 beneficial owners of Susan Jo McKeefry Insurance Trust.

iii. There are 8 partners in Arque, domiciled in New York, Missouri, and California.

7. Below is a summary indicating the total number of individuals in GSP's current limited partners for whose benefit *Pierce* is brought.

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|---|---|
| Accucom Profit Sharing Plan | 12 |
| Allard | 12 |
| Arque | 8 |
| Artemis Financial Services LLC | 1 |
| Artemis Financial Services LLC Pension | 1 |
| Capital Management Partners | 15 |
| Core Equity Trust | 10 |
| Dawson Bypass Trust | 3 |
| Edward Demetriou | 1 |
| Frank E. Pierce, III | 1 |
| Frank E. Pierce, III, IRA | 1 |
| Gail Plautz, John Plautz and Alberta Plautz as joint tenants | 3 |
| Gil Bossidan | 1 |
| Goldberger & Dubin Retirement Trust | 2 |
| J. Rubin & B. Globerman | 2 |
| JODA Brokerage Associates, Inc. Pension | 1 |
| John R. Schaupp | 1 |
| Jose Luis Cabrera & Rosa Maria Cabeda | 2 |
| Lisa G. Kaminir | 1 |
| Marilyn Noel McAlister | 1 |
| Natalia Hatgis | 1 |
| Patricia L. Cook Revocable Trust | 1 |
| Philip A. Annibali Declaration of Trust | 1 |
| Ronald A. Thomann | 1 |
| Sara Varzan & Luis Aron | 2 |
| Susan Jo McKeefry Insurance Trust | 4 |
| Susan McKeefry | 1 |
| Triumph | 19 |
| Yoshiki and Masano Hidaka | 2 |
| **TOTAL** | **111** |

8. Below is a summary indicating the total number of individuals in GSP's former limited partners for whose benefit *Pierce* is brought.

| | |
|---|---|
| Premier Advisors Fund | 54 |
| Juniper Street Absolute Return Trust | 1 |
| Matapeodia LP | 1 |
| Citco Global Custody NV Pictet Notzstucki | 1 |
| Gillian Jolis Defined Benefit Plan | 1 |
| **TOTAL** | **58** |

9. We have provided copies of the Subpoena Responses to counsel for the Derivative Plaintiffs pursuant to a confidentiality agreement.

10. In order to preserve the confidential and personal information of the investors in GSP, the Subscription Agreements and Subpoena Responses have not been attached to this Declaration. At the Court's request, these documents will be provided for in-camera review.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 27, 2009

Paul J. Sirkis